



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 13, 1998

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
501 Police and Courts Building
Dallas, Texas 75201

OR98-0449

Dear Ms. Middlebrooks:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113124.

The Dallas Police Department (the "department") received an open records request for "all public documents related to the Internal Affairs Division investigation of \$50,000 reported missing from the Narcotics Division safe on April 30, 1996." You seek to withhold the requested information, a representative sample of which you have submitted to this office for review, pursuant to section 552.108 of the Government Code.¹

Section 552.108(a)(1) of the Government Code, as amended by the Seventy-fifth Legislature, excepts from required public disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" When a governmental body presents this office with evidence that requested information relates to an on-going criminal investigation, this office generally will presume that the release of the information would interfere with law enforcement or prosecution so as to bring the information within the protection of section 552.108(a)(1).

You explain that upon discovery of the missing narcotics funds, the department requested the Federal Bureau of Investigation (the "FBI") to conduct a criminal investigation. Judging from the records before us, the FBI has concluded its investigation without any specific findings but has released to the department a copy of its final report "for

¹In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

whatever administrative purposes your office deems necessary." Upon receipt of the FBI report, the department's Internal Affairs Division conducted its own investigation into the circumstances surrounding the disappearance of the funds. It appears that this investigation has also concluded without a conclusive finding as to how the funds disappeared.

You contend the information pertaining to the internal affairs investigation is excepted from public disclosure pursuant to section 552.108 because

its disclosure would jeopardize any future criminal investigation and prosecution for the theft of the \$50,000 from the Narcotics Division safe. Public release of this information would make prosecution more difficult because the internal investigation lays out details that would comprise a large portion of the State's criminal case. Further, although criminal charges have not been filed in this matter, any further information relevant to this offense will be fully investigated by the DPD and/or the [FBI]. The DPD wants the full opportunity to apprehend and prosecute the individual responsible for the theft of the \$50,000. The release of this file would seriously compromise that opportunity.

In this instance, you have met your burden of establishing that the release of the requested materials could interfere with future criminal prosecution. We therefore conclude that the department may withhold the requested information at this time pursuant to section 552.108(a)(1) of the Government Code.² Because we resolve your request under section 552.108, we need not address your other arguments for non-disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/RWP/ch

²Please note, however, that no "basic information" about the criminal investigation may withheld under section 552.108. See Gov't Code § 552.108(c).

Ref.: ID# 113124

Enclosures: Submitted documents

cc: Mr. Jason Sickles
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(w/o enclosures)